

DOCKET NO.: NIH-0127

~~PATENT~~

JUN 11 2002

JUN 11 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Mario H. Skiadopoulos et al.

Serial No.: 09/900,112

Filing Date: July 5, 2001

For: ATTENUATED HUMAN-BOVINE CHIMERIC PARAINFLUENZA VIRUS (PIV) VACCINES

Confirmation No.: 5747

Group Art Unit: Not Yet Assigned

Customer No.: 23377

EXPRESS MAIL LABEL NO.: EL695382992US
DATE OF MAIL INC: June 11, 2002

U. S. Patent and Trademark Office
Box Sequence, P.O. Box 2327
Arlington, Virginia 22202

**RESPONSE TO THE DECISION GRANTING PETITION
AND REQUEST FOR EXTENSION OF TIME**

In response to the "Decision Granting Petition" dated December 11, 2001, a response to which is due June 11, 2002, enclosed herewith for filing is:

Declarations and Powers of Attorney

- A Combined Declaration and Power of Attorney, executed by the inventor(s). An unexecuted copy of this document, attached to the above-identified specification, was filed by Express Mail No. ET052994109US on July 5, 2001.
- A Combined Declaration and Power of Attorney, executed by the inventor(s) and identifying fewer/more inventors than those identified in the unexecuted declaration filed with to the above-identified application specification on @@, via by Express Mail No. @@. Such deletion/addition of inventors is specifically provided for in 37 CFR Sec. 1.48.
- A copy of the original Declaration and Power of Attorney, executed by the inventor(s) as filed in parent application serial no. _____.
- A copy of the Power of Attorney with revocation filed on _____.

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- A Combined Power of Attorney with Revocation and Statement Under 3.73(b)
- An associate power of attorney executed by Jeffrey J. King who is/was listed on the original declaration/power of attorney.

Drawings

- _____ Sheets of Substitute drawings comprising Figures _____ in compliance with 37 C.F.R. 1.84.

Sequence Listing (Note - All items listed below are required if Sequence Listing is also being filed with Missing Parts)

- Paper copy of Sequence Listing
- Diskette containing Sequence Listing in computer readable form
- Preliminary Amendment directing entry of sequence listing in specification
- Statement to Support Filing of Sequence listing

Claim for Small Entity Status

- Applicant(s) has previously claimed small entity status under 37 CFR §1.27.
- Applicant(s) by its/their undersigned attorney, claims small entity status under 37 CFR §1.27 as:
 - an Independent Inventor
 - a Small Business Concern
 - a Nonprofit Organization

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Miscellaneous Items

A copy of the Decision Granting Petition

Request for Corrected Filing Receipt.

Request for Refund Due to Small Entity Status

Request for Refund Due to Fee Calculation Error

A substitute specification in compliance with 37 C.F.R. 1.52.

Other: Abstract of the application

Fee Calculation and Extension of Time

Request is hereby made under 37 CFR 1.136(a) to extend the time for response to the Decision Granting Petition due February 11, 2002 to and through June 11, 2002, comprising an extension of the shortened period of four (4) months:

	SMALL ENTITY		NOT SMALL ENTITY	
	RATE	Fee	RATE	Fee
MISSING PARTS SURCHARGE	\$65	\$	\$130	\$
<input type="checkbox"/> ONE MONTH EXTENSION OF TIME	\$55	\$	\$110	\$
<input type="checkbox"/> TWO MONTH EXTENSION OF TIME	\$200	\$	\$400	\$
<input type="checkbox"/> THREE MONTH EXTENSION OF TIME	\$460	\$	\$920	\$
<input checked="" type="checkbox"/> FOUR MONTH EXTENSION OF TIME	\$720	\$	\$1440	\$1,440.00
<input type="checkbox"/> FIVE MONTH EXTENSION OF TIME	\$980	\$	\$1960	\$
TOTAL FEE DUE				\$1,440.00

Applicant(s) has/have not been notified that the requested extension will not be permitted. The present application is not involved in an interference declared pursuant to 37 CFR 1.207.

A check in the total amount due of \$@@@ is attached to cover the surcharge and any requested extension of time. Please charge any deficiency or credit any overpayment to Deposit Account No. 23-3050.

Please charge the surcharge to my Deposit Account No. 23-3050 in the amount of \$1,440.00.

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The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 23-3050. This sheet is attached in duplicate.

Any additional filing fees required under 37 CFR 1.16 including fees for presentation of extra claims.

Any additional patent application processing fees under 37 CFR 1.17 and under 37 CFR 1.20(d).

The Commissioner is hereby authorized to charge payment of the following fees during the pendency of this application or credit any overpayment to Deposit Account No. 23-3050. This sheet is attached in duplicate.

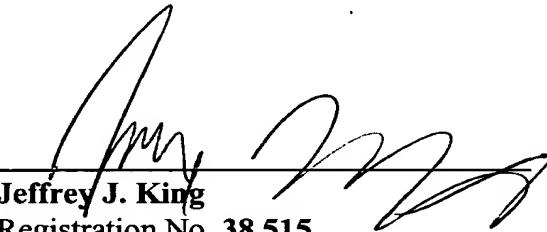
Any patent application processing fees under 37 CFR 1.17 and under 37 CFR 1.20(d).

The issue fee set in 37 CFR 1.18 at or before mailing of the Notice of Allowance, pursuant to 37 CFR 1.311(b).

Any filing fees under 37 CFR 1.16 including fees for presentation of extra claims.

This sheet is attached in duplicate.

Date: June 11, 2002


Jeffrey J. King
Registration No. 38,515

Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439

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United States Patent and Trademark Office
Washington, D.C. 20231
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DW 11-01

BUW
015280-422100US
Paper No. 4

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OFFICE OF PETITIONS

In re Application of :
Skiadopoulos et al. : DECISION GRANTING
Application No. 09/900,112 : PETITION
Filed: 5 July, 2001 :
Attorney Docket No. 015280-422100US :

This is a decision on the petition filed on 26 September, 2001, requesting that the above identified application be accorded a filing date of 5 July, 2001, with 30 sheets of drawings as a part of the original disclosure.

The application was filed on 5 July, 2001. On 31 August, 2001, however, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings. Additionally, the petitioner was informed that the oath or declaration, the abstract, and a Sequence Listing in compliance with 37 CFR 1.821-1.825 were required. A two (2)-month period for reply was set.

On 26 September, 2001, in response, *inter alia*, the present petition, a check for \$130.00, and 30 sheets of drawings were filed. Petitioners argue that the 30 sheets of drawings were filed with the other application papers on 5 July, 2001, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied on 26 September, 2001. The postcard receipt shows an Office date stamp of 5 July, 2001, and the above-identified application number and acknowledges receipt of, *inter alia*, 30 sheets of drawings. Petitioners request that the application, including 30 sheets of drawings, be accorded a filing date of 5 July, 2001.

A review of the record reveals that no sheets of drawings are located among the application papers received on 5 July, 2001. However, the evidence is convincing that the application papers deposited on 5 July, 2001, included 30 sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including 30 sheets of drawings, is entitled to a filing date of 5 July, 2001.

The Notice of Incomplete Nonprovisional Application mailed on 31 August, 2001, was sent in error and is hereby vacated to the extent that it stated that the application had been deposited without drawings.

The petition is granted to the extent indicated above. The oath or declaration, abstract, and Sequence Listing in compliance with 37 CFR 1.821-1.825 are still required.

Applicant is given TWO MONTHS from the mailing date of this decision to file a signed oath/declaration, an abstract, and a Sequence Listing in compliance with 37 CFR 1.1.821-1.825.

Applicant must provide a computer readable form (CRF) copy of the Sequence Listing, an initial paper or compact disc copy of the Sequence Listing as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing, and, where applicable includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). This time period may be extended pursuant to 37 CFR 1.136(a). **Failure to comply with these requirements will result in the abandonment of the application.**

Since the application was filed on 5 July, 2001, without a signed oath/declaration, the \$130.00 surcharge set forth in 37 CFR 1.16(e) is required. The petition fee, which is unnecessary because the petition is due to USPTO error, will be credited towards the surcharge.

The application is being returned to the Office of Initial Patent Examination to await the response required above and for further processing with a filing date of 5 July, 2001.

Telephone inquiries specific to this matter should be directed to
Petitions Attorney Douglas I. Wood at (703) 308-6918.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

#5

RAM Fee History
Query
Revenue Accounting and Management

Name/Number: 09900112

Total Records Found: 7

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Tran Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
07/12/2001	00000082	1	<u>101</u>	\$710.00	07/05/2001	DA 201430
07/12/2001	00000083	1	<u>102</u>	\$80.00	07/05/2001	DA 201430
07/12/2001	00000084	1	<u>103</u>	\$1,152.00	07/05/2001	DA 201430
10/01/2001	00000103	1	<u>122</u>	\$130.00	09/26/2001	DA 233050
12/12/2001	00000009	1	<u>122</u>	-\$130.00	09/26/2001	DA 233050
12/12/2001	00000010	1	<u>105</u>	\$130.00	09/26/2001	DA 233050
06/19/2002	00000022	1	<u>118</u>	\$1,440.00	06/11/2002	DA 233050